

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**WILLIAM P. HAESSLY,
Petitioner,**

v.

Case No. 05C1143

**GREG GRAMS,
Respondent.**

ORDER

On October 31, 2005, William P. Haessly filed this petition pursuant to 28 U.S.C. § 2254, asserting that his state court conviction and sentence were imposed in violation of the Constitution. Petitioner was convicted in Milwaukee County Circuit Court of first degree intentional homicide with use of a dangerous weapon. He was sentenced to life imprisonment and is currently incarcerated at Columbia Correctional Institution.

Pursuant to Rule 4 of the Rules Governing § 2254 Cases, I must give the case prompt initial consideration.

If it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the petitioner to be notified. Otherwise the judge shall order the respondent to file an answer.

Rule 4, Rules Governing § 2254 Cases. During my initial review of habeas petitions, I look to see whether the petitioner has set forth cognizable constitutional or federal law claims and exhausted available state remedies.

Petitioner appears to claim that his due process rights were violated by the admission of prejudicial evidence. Habeas relief can be appropriate if evidentiary rulings were so prejudicial that they compromised the petitioner's due process right to a

fundamentally fair trial. Anderson v. Sternes, 243 F.3d 1049, 1053 (7th Cir. 2001). Petitioner also claims that he received ineffective assistance of counsel. Ineffective assistance of counsel is also a constitutional ground for habeas relief under Strickland v. Washington, 466 U.S. 668 (1984), and its progeny. Thus, petitioner presents at least some colorable constitutional issues.

Petitioner filed with his petition an application for leave to proceed in forma pauperis. With his application for leave to proceed in forma pauperis, petitioner submitted his trust account statement. Upon review of this statement, I am satisfied that petitioner is unable to pay the filing fee. Thus, I will grant his motion to proceed in forma pauperis.

THEREFORE, IT IS ORDERED that within 30 days of the date of this order respondent **ANSWER** the petition, complying with Rule 5 of the Rules Governing § 2254 Cases, and showing cause, if any, why the writ should not issue.

FURTHER, IT IS ORDERED that unless respondent files a dispositive motion with its answer the parties shall abide by the following schedule regarding the filing of briefs on the merits of petitioner's claims: (1) petitioner shall have 45 days following the filing of respondent's answer within which to file his brief in support of his petition; (2) respondent shall have 45 days following the filing of petitioner's initial brief within which to file a brief in opposition; and (3) petitioner shall have 30 days following the filing of respondent's opposition brief within which to file a reply brief, if any.

In the event that respondent files a dispositive motion and supporting brief with its answer, this briefing schedule will be suspended and the briefing schedule will be as follows: (1) petitioner shall have 45 days following the filing of respondent's dispositive

motion and supporting initial brief within which to file a brief in opposition; and (2) respondent shall have 30 days following the filing of petitioner's opposition brief within which to file a reply brief, if any.

Pursuant to Civil L.R. 7.1(f), the following page limitations apply: briefs in support of or in opposition to the habeas petition or a dispositive motion filed by respondent must not exceed thirty pages and reply briefs must not exceed fifteen pages, not counting any statements of facts, exhibits, and affidavits.

FURTHER, IT IS ORDERED that petitioner's request for leave to proceed in forma pauperis is **GRANTED**.

Petitioner is advised that he must send copies of all future filings with the court to counsel for respondent, no matter whether in letter, brief, memorandum, or other form. Until respondent files his or her answer, these copies should be sent to Gregory Weber at the address below.

Pursuant to Rule 4 of the Rules Governing § 2254 Cases, copies of the petition and this order will be mailed to respondent Greg Grams and to the Attorney General for the State of Wisconsin, c/o Gregory Weber, Assistant Attorney General, P.O. Box 7857, Madison, WI 53707.

Dated at Milwaukee, Wisconsin, this 17 day of November, 2005.

/s_____
LYNN ADELMAN
District Judge